

# COMMITTEE AMENDMENT FORM

DATE: 03/27/ 07

COMMITTEE      CITY UTILITIES

PAGE NUM. (S) 1

ORDINANCE I. D. #07-O-0457

SECTION (S)

RESOLUTION I. D. #07-R-

PARA. CAPTION

AMENDS THE LEGISLATION BY INSERTING THE FOLLOWING  
LANGUAGE AFTER "SECTION 32-3-4;" IN THE CAPTION OF THE  
ORDINANCE; "TO AUTHORIZE THE WAIVER OF SECTIONS 2-  
1541 (d), 2-1542 AND 2-1545 (d) OF THE CODE OF ORDINANCES;"

AMENDMENT DONE BY COUNCIL STAFF 03/27/07

BY CITY UTILITIES COMMITTEE

**AUTHORIZING THE PURCHASE AND ACQUISITION OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE SIMPSON ROAD STREETScape, GREENBRIAR PARKWAY STREETScape, HEADLAND DRIVE STREETScape, BARGE ROAD INTERSECTION IMPROVEMENT, LAKEWOOD HEIGHTS STREETScape, PERRY ROAD STREETScape, PHASE 2, BOLTON ROAD STREETScape, MARIETTA BOULEVARD STREETScape, CHESHIRE BRIDGE STREETScape 2, NORTH HIGHLAND STREETScape, PHASE 2, AND EAST ATLANTA VILLAGE; TO AUTHORIZE THE MAYOR TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4; TO AUTHORIZE THE WAIVER OF SECTIONS 2-1541(d), 2-1542 AND 2-1545(d) OF THE CODE OF ORDINANCES; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.**

**WHEREAS**, it is necessary to acquire permanent and temporary construction easements and necessary rights-of-way from various property owners for roadway improvements for the Simpson Road Streetscape, Greenbriar Parkway Streetscape, Headland Drive Streetscape, Barge Road intersection improvement, Lakewood Heights Streetscape, Perry Road Streetscape, Phase 2, Bolton Road Streetscape, Marietta Boulevard Streetscape, Cheshire Bridge Streetscape 2, North Highland Streetscape, Phase 2, and East Atlanta Village; and

**WHEREAS**, State Law, O.C.G.A. 32-3-4 authorizes the use of Declaration of Taking as a method of condemnation whenever a municipality desires to take private property for public road purposes or for any other public transportation purposes; and

**WHEREAS**, use of Declaration of Taking as a method of condemnation would expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involve road and transportation improvements; and

**WHEREAS**, state law requires a finding by a municipality that circumstances necessitate the use of Declaration of Taking before such method of condemnation can be used by a municipal government; and

**WHEREAS**, in order to complete the proposed construction and roadway improvements in a timely fashion the requirements of Sections 2-1541 (d) and 2-1545 (d) of the Procurement and Real Estate Code, which require further authorization of council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance, are waived.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:**

**SECTION 1:** That the Chief Procurement Officer or authorized designee is hereby authorized to negotiate with the affected property owners to acquire temporary or permanent construction easements and the necessary rights-of-way, and other related property interests necessary to complete construction of Simpson Road Streetscape, Greenbriar Parkway Streetscape, Headland Drive Streetscape, Barge Road intersection improvement, Lakewood Heights Streetscape, Perry Road Streetscape, Phase 2, Bolton Road Streetscape, Marietta Boulevard Streetscape, Cheshire Bridge Streetscape 2, North Highland Streetscape, Phase 2, and East Atlanta Village projects.

**SECTION 2:** That the Declaration of Taking as a method of condemnation be utilized to expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involves road and transportation improvements.

**SECTION 3:** That in order to complete the proposed projects in a timely fashion the requirements of Sections 2-1541 (d) and 2-1545 (d) of the Procurement and Real Estate Code, which require further authorization of council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance, are waived.

**SECTION 4:** That the Chief Procurement or authorized designee is hereby authorized to obtain reports, appraisal reports, land surveys, legal descriptions, environmental reports, and to negotiate with the affected property owners.

**SECTION 5:** That when the Chief Procurement Officer's negotiations with the owners are unsuccessful, to institute necessary legal action through condemnation or any other method provided by law to acquire the property interests needed to complete the Simpson Road Streetscape, Greenbriar Parkway Streetscape, Headland Drive Streetscape, Barge Road intersection improvement, Lakewood Heights Streetscape, Perry Road Streetscape, Phase 2, Bolton Road Streetscape, Marietta Boulevard Streetscape, Cheshire Bridge Streetscape 2, and North Highland Streetscape, Phase 2, and East Atlanta Village projects.

**SECTION 6:** That the City of Atlanta's outside consultants and their sub consultants are authorized to settle those acquisitions of property at an amount not to exceed ten percent (10%) above the estimated just compensation.

**SECTION 7:** That the Chief Procurement Officer is authorized to administratively settle, without further authorization of city council, those acquisitions which exceed these limitations which the City of Atlanta's consultants cannot otherwise acquire. However, in no event shall the Chief Procurement Officer's authority to administratively negotiate or settle such acquisitions without council authorization exceed twenty percent (20%) above the estimated just compensation of affected properties.

**SECTION 8:** That the City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from city council. The provisions of Section 2-1542 requiring further authorization for condemnations are hereby waived.

**SECTION 9:** That the City Attorney, or her designee, is authorized to monitor and supervise the closing transactions with affected property owners in connection with these construction and roadway improvements, with the assistance of the City of Atlanta consultants and sub-consultants.

**SECTION 10:** That all costs associated with this ordinance shall be charged to and paid from Fund, Account, and Center numbers: That all costs associated with this ordinance shall be charged to and paid from Fund, Account, and Center numbers: 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F058392BH (Simpson Rd – Streetscape Improvements Projects, District 3), 1C50 (2004 Quality of Life Bond Fund). 574001 (Fac Other Than Buildings) Y63F064592BH (Greenbriar Parkway – Greenbriar Area), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F064592BH (Headland Dr – Greenbriar Area), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F064592BH (Barge Rd – Greenbriar Area), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F063892BH (Lakewood Heights Town Ctr), 1C50 (2004 Quality Of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F058992BH ( Perry Blvd – Streetscape Improvements Projects, District 9) 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F058992BH (Bolton – Streetscape Improvements Projects, District 9), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F05892BH (Marietta Blvd – Streetscape Improvements, District 9), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F058692BH (Cheshire Bridge – Streetscape Improvements, District 6) 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F058692BH (N Highland - Streetscape Improvements, District 6), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac Other Than Buildings) Y63F064092BH (East Atlanta Village Center).

**AN ORDINANCE  
BY CITY UTILITIES COMMITTEE**

**07-0 -0457**

**AN ORDINANCE AUTHORIZING THE PURCHASE AND ACQUISITION OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE SIMPSON ROAD STREETScape, GREENBRIAR PARKWAY STREETScape, HEADLAND DRIVE STREETScape, BARGE ROAD INTERSECTION IMPROVEMENT, LAKEWOOD HEIGHTS STREETScape, PERRY ROAD STREETScape, PHASE 2, BOLTON ROAD STREETScape, MARIETTA BOULEVARD STREETScape, CHESHIRE BRIDGE STREETScape 2, NORTH HIGHLAND STREETScape, PHASE 2, AND EAST ATLANTA VILLAGE; TO AUTHORIZE THE MAYOR TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.**

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**WHEREAS**, State Law, O.C.G.A. 32-3-4 authorizes the use of Declaration of Taking as a method of condemnation whenever a municipality desires to take private property for public road purposes or for any other public transportation purposes; and

**WHEREAS**, use of Declaration of Taking as a method of condemnation would expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involve road and transportation improvements; and

**WHEREAS**, state law requires a finding by a municipality that circumstances necessitate the use of Declaration of Taking before such method of condemnation can be used by a municipal government; and

**WHEREAS**, in order to complete the proposed construction and roadway improvements in a timely fashion the requirements of Sections 2-1541 (d) and 2-1545

(d) of the Procurement and Real Estate Code, which require further authorization of council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance, are waived.

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**Part II: Legislative White Paper:**

**Committee of Purview:** City Utilities

**Caption:** AN ORDINANCE AUTHORIZING THE PURCHASE AND ACQUISITION OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE SIMPSON ROAD STREETSCAPE, GREENBRIAR PARKWAY STREETSCAPE, HEADLAND DRIVE STREETSCAPE, BARGE ROAD INTERSECTION IMPROVEMENT, LAKEWOOD HEIGHTS STREETSCAPE, PERRY ROAD STREETSCAPE, PHASE 2, BOLTON ROAD STREETSCAPE, MARIETTA BOULEVARD STREETSCAPE, CHESHIRE BRIDGE STREETSCAPE 2, NORTH HIGHLAND STREETSCAPE, PHASE 2, AND EAST ATLANTA VILLAGE; TO AUTHORIZE THE MAYOR TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.

**Council Meeting Date:** March 19, 2007

**Requesting Dept.:** Public Works

**1. Please provide a summary of the purpose of this legislation (Justification Statement).**

To authorize the purchase of permanent and temporary construction easements and the necessary rights of way from various land owners for the completion of the Simpson Road streetscape, Greenbriar Parkway streetscape, Headland Drive Streetscape, Barge Road intersection improvement, Lakewood Heights Streetscape, Perry Road Streetscape, Bolton Road streetscape, Marietta Blvd streetscape, Cheshire Bridge streetscape phase 2 and North Highland streetscape, phase 2..

**2. Please provide background information regarding this legislation.**

These projects are currently in the design phase.

**3. If Applicable/Known:**

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**
- (b) **Source Selection:**
- (c) **Bids/Proposals Due:**



(d) **Invitations Issued:**

(e) **Number of Bids:**

(f) **Proposals Received:**

(g) **Bidders/Proponents:**

(h) **Term of Contract:**

**4. Fund Account Center:** FAC Numbers forthcoming

**5. Source of Funds:**

**6. Fiscal Impact:**


**7. Method of Cost Recovery:**

**This Legislative Request Form Was Prepared By:** Michele Wynn

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Legislative Counsel (Signature): Nikki Turner 

Contact Number: x 6001

Originating Department: Public Works

Committee(s) of Purview: City Utilities

Council Deadline: February 26, 2007

Committee Meeting Date(s): March 13-14, 2007 Full Council Date: March 19, 2007.

Commissioner Signature 

CAPTION

AN ORDINANCE AUTHORIZING THE PURCHASE AND ACQUISITION OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE SIMPSON ROAD STREETSCAPE, GREENBRIAR PARKWAY STREETSCAPE, HEADLAND DRIVE STREETSCAPE, BARGE ROAD INTERSECTION IMPROVEMENT, LAKEWOOD HEIGHTS STREETSCAPE, PERRY ROAD STREETSCAPE, PHASE 2, BOLTON ROAD STREETSCAPE, MARIETTA BOULEVARD STREETSCAPE, CHESHIRE BRIDGE STREETSCAPE 2, NORTH HIGHLAND STREETSCAPE, PHASE 2, AND EAST ATLANTA VILLAGE; TO AUTHORIZE THE MAYOR TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A. SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT: n/a

Mayor's Staff Only

Received by Mayor's Office: 2-27-07 (date) Reviewed by:  (date)

Submitted to Council: 3/2/07 (date)